

**Before the State of South Carolina
Department of Insurance**

IN THE MATTER OF:)	
)	Consent Order Imposing
)	Administrative Penalty
Optimum Choice of the Carolinas, Inc.)	
)	File Number 121411
4 Taft Court)	
Rockville, MD 20850)	
_____)	

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Optimum Choice of the Carolinas, Inc., an insurer licensed to transact insurance business within the State of South Carolina.

This insurer hereby admits, and I find as fact, that it failed to timely file its 2003 Fee and Tax Return for Health Maintenance Organization. This insurer previously also had failed to timely file one previous filing with the Department, for which it was given a first-offense warning letter. This insurer maintains these actions were completely unintentional.

Rather than contest this matter, this insurer and the Department have agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. That consensual recommendation was that this insurer would waive its right to a public hearing and would submit an administrative penalty to the Department in the total amount of \$1,000.

Every health maintenance organization annually shall file with the department by March first, in the form and detail the director or his designee prescribes, a statement showing the business standing and financial condition of the health maintenance organization on December thirty-first of the preceding year, except that upon timely written request by the president or chief executive officer setting forth reasons why the statement cannot be filed within the time provided, the director or his designee may grant in writing an extension of filing time for not more than thirty days. Sections 38-7-60 (4) and 38-5-120 (A) (2) (Supp. 2001) allow the Director of Insurance to impose disciplinary action against an insurer that does not comply with South Carolina's insurance laws.

After a thorough review of the matter, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law that this insurer did not comply with S.C. Code Ann. § 38-7-60(3) (Supp. 2001). Accordingly, I hereby impose an administrative penalty in the amount of \$1,000 against this insurer pursuant to the discretion provided to me by the State of South Carolina General Assembly in S.C. Code Ann. §§ 38-5-130 and 38-2-10 (Supp. 2001). This administrative penalty must be paid within ten days of my date and my signature upon this consent order. If this insurer has not paid that total amount on, or before, that date, then its certificate of authority to transact business as an insurer within the State of South Carolina will be summarily revoked without any further administrative disciplinary proceedings.

The parties have reached this administrative penalty as a result of negotiation and compromise, and in consideration of the internal corrective internal measures this insurer has implemented to prevent this problem from recurring and of this insurer's assurance that it will timely file each of its future annual fee and tax return with the Department. This penalty includes all expenses related to investigation of this

matter as provided in § 38-13-70 of the South Carolina Code. The parties expressly agree and understand this insurer's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By the signature of one of its officers or authorized representatives upon this consent order, this insurer acknowledges that it understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2001).

Nothing contained within this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 2001), of the Director of Insurance, exercised either directly or through the Department, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Optimum Choice of the Carolinas, Inc. shall, within ten days of my date and my signature upon this consent order, pay to the Department an administrative penalty in the total amount of \$1,000.

It is further ordered that a copy of this consent order shall be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective on the date of my signature below.


Eleanor Kitzman
Director

Aug 23, 2005
Columbia, South Carolina

I CONSENT:


Signature of Authorized Representative

SHARON C. PAVLOS
Name

Secretary
Title

Optimum Choice of the Carolinas, Inc.
4 Taft Court
Rockville, MD 20850

Dated this 18 day of August, 2005